

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for Interim
Suspension Order Against:**

PARKER TIMOTHY BAILEY

**Respiratory Care Practitioner
License No. 5730,**

Respondent.

Case No. IH-2007-120

OAH No. L2007040804

ORDER OF INTERIM SUSPENSION

On April 27, 2007, at Los Angeles, California, the Petition of Stephanie Nunez (Petitioner), Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs, for issuance, on an ex parte basis, of an Interim Order of Suspension (Petition), pursuant to Government Code section 11529, came on for hearing before Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings. Chris Leong, Deputy Attorney General, represented Petitioner. Parker Timothy Bailey (Respondent) was present and represented himself.

On April 27, 2007, pursuant to stipulation of the parties, the Administrative Law Judge issued an interim order suspending Respondent's respiratory care practitioner license and setting the matter for a noticed hearing on May 14, 2007, pursuant to the requirements of Government Code section 11529, subdivision (c).

The matter was again before the Administrative Law Judge on May 14, 2007, for a noticed hearing pursuant to Government Code section 11529, subdivision (c). Deputy Attorney General Leong represented Petitioner, and Respondent represented himself.

The Administrative Law Judge read and considered all papers filed in support of and in opposition to the Petition and heard and considered the argument made by the parties at the hearing. The matter was submitted on May 14, 2007.

FACTUAL FINDINGS

1. Petitioner filed the Petition while acting in her official capacity as the Executive Officer of the Board.

2. In 1985, the Board issued Respiratory Care Practitioner License No. 5730 to Respondent. That license was in effect at all relevant times.¹

3. Prior to March 8, 2007, Respondent's coworkers at Presbyterian Intercommunity Hospital in Whittier, California (hospital or PIH), noticed that Respondent's behavior was erratic and that he was becoming increasingly hostile to co-workers and physicians in the operating room (OR). He was also observed red-faced and sweating while on duty. Additionally, empty syringes were found in Respondent's work space in the OR.

4(a). On March 8, 2007, Respondent was confronted by Rebecca C. Weyant (Weyant), Director of Surgery, and Todd Salnas (Salnas), hospital Vice President, about Respondent's possible drug theft and use while on duty. Weyant and Salnas interviewed Respondent. At this interview, Respondent admitted that he had stolen controlled substances from the hospital and that he had used and been under the influence of these drugs while on duty. When Weyant and Salnas inspected Respondent's work area of the OR, they found evidence of Morphine and Demerol use.

4(b). In a March 14, 2007 declaration signed under penalty of perjury (declaration), Respondent admitted that, for the prior 9 to 12 months, he took Morphine syringes from the anesthesiologists' "drug boxes," refilling the syringes with saline and returning them to the "drug box." This theft increased over time, starting from one to two syringes per week and rising to one to two syringes per day, including an occasional Demerol syringe. Additionally, at the beginning of March 2007, Respondent stole two vials of Fentanyl.

5. During the March 8, 2007 interview, Weyant and Salnas contacted an employee assistance counselor, who came to speak with Respondent about enrolling in a drug rehabilitation program. Immediately following the interview, Respondent admitted himself to an inpatient chemical dependency rehabilitation program. Respondent was released from the inpatient program on March 12, 2007, and began out-patient treatment three hours per day, four days per week.

6(a). In his declaration, Respondent indicated that, in December of 2006, after he began his drug use, he experienced depression, which he believed resulted from problems with his children, his ex-wife, his "boss" and his girlfriend of four years who had just broken up with him. Instead of going to "a doctor" to treat his depression, he "continued to self-medicate."

6(b). Respondent provided no indication of what prompted his drug theft and use during the months prior to December 2006.

¹ There was no direct evidence to establish this Factual Finding. However, this finding was alleged in the Petition, and Respondent did not contest the allegation. Furthermore, Respondent acknowledged at the hearing that he had been licensed for over 20 years.

7. As of March 14, 2007, Respondent was receiving treatment for his depression.

8(a). As a result of the March 8, 2007 interview, Respondent was suspended from working at PIH. Respondent was advised that he must be drug free and compliant with any Board-required rehabilitation program prior to returning to work at PIH. He was also advised that further violation would result in his termination.

8(b). On April 1, 2007, Respondent, wearing scrubs, was present in the hospital and was observed walking past the OR.

8(c). On April 4, 2007, Respondent was terminated from employment with PIH.

8(d). In an April 4, 2007 letter, Harold Herlong (Herlong), Director of Respiratory Services at PIH, informed the Board of Respondent's presence at the hospital on April 1, 2007, and his termination on April 4, 2007. Herlong's letter also stated:

[It] was inappropriate for [Respondent] to appear in the surgical area, in scrubs, after being told[,] when suspended, that he would not be going back into any area with controlled medications – especially surgery. He would not be allowed back to work until the hospital received complete clearance from the [Board] to return to work.

LEGAL CONCLUSIONS

1. Respondent has engaged in acts or omissions constituting a violation of the Respiratory Care Practice Act. Respondent's theft and use of controlled substances violated Business and Professions Code section 3750.5, subdivision (b).

2(a). Permitting Respondent to continue to engage in the licensed activity would endanger the public health safety and welfare.

2(b). Respondent stole numerous morphine syringes and replaced them with saline, which later may have been administered to patients in lieu of pain medication. These actions placed numerous patients' health, safety and welfare at risk. Additionally, by using and being under the influence of controlled substances at work, Respondent impaired his ability to practice respiratory care, further placing patients' health, safety and welfare at risk. Respondent abused controlled substances for about one year, and did not stop until two months ago. Respondent's two-month drug rehabilitation efforts, compared to the length of his addiction, is inadequate to ensure protection of the public, should he be permitted to engage in licensed activity. Furthermore, there was no evidence that Respondent's rehabilitation efforts were addressing the impetus for his drug use in order to protect against relapse. Moreover, given Respondent's unauthorized return to the hospital OR area on April 1, 2007, modification of the interim suspension order is not warranted, as it is doubtful that any


restrictions imposed would be obeyed. Protection of the public cannot be accomplished short of suspension of Respondent's license.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The Petition for Interim Order of Suspension is granted.
2. Subject to the provisions of Government Code section 11529, Respiratory Care Practitioner License No. 5730, issued to Respondent, Parker Timothy Bailey, is suspended, pending a full administrative determination of Respondent's fitness to practice respiratory care.
3. During the time this Interim Suspension Order is in effect:
 - (a) Respondent is prohibited from practicing any aspect of respiratory care in the State of California;
 - (b) Respondent shall not advertise himself, by any means, or hold himself out as practicing or being available to practice respiratory care in this State;
 - (c) Respondent shall not be present in any location or office which is maintained for the practice of respiratory care, or at which respiratory care is practiced, for any purpose except as a patient or as visitor of family and friends;
 - (d) Respondent shall not possess, order, purchase, receive, prescribe, furnish, administer, or otherwise distribute controlled substances or dangerous drugs as defined by federal or state law, except that Respondent may possess medications which have been prescribed to him by his treating physicians.

DATED: May 17, 2007



JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE

Case Name: PARKER TIMOTHY BAILEY

OAH No.: L2007040804

I, Rosario Magalit, declare as follows: I am over 18 years of age and am not a party to this action. I am employed by the Office of Administrative Hearings. My business address is 320 W. 4th Street, Suite 630, Los Angeles, CA 90013. On May 17, 2007, I served a copy of the following document(s) in the action entitled above:

**ORDER OF INTERIM SUSPENSION IN THE MATTER OF THE PETITION FOR
INTERIM SUSPENSION ORDER AGAINST PARKER TIMOTHY BAILEY;
OAH NO. L2007040804**

to each of the person(s) named below at the addresses listed after each name by the following method(s):

Chris Leong, Deputy Attorney General
Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Parker Timothy Bailey
15114 Monterey Avenue
Chino Hills, CA 91709

☐ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package for collection and mailing, in accordance with the Office of Administrative Hearings' ordinary business practices, in Los Angeles, California. I am readily familiar with the Office of Administrative Hearings' practice for collecting and processing documents for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid [☐ by certified mail].

☐ **United States Mail (Deposit).** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above and deposited the sealed envelope or package in Los Angeles, California, with the United States Postal Service, with postage fully prepaid [☐ by certified mail].

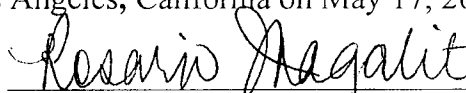
☐ **Fax Transmission.** I personally transmitted the above-described document(s) to the person(s) at the fax number(s) listed above, from fax machine number (213) 576-7244, pursuant to Government Code section 11440.20 and California Code of Regulations, title 1, section 1008, subdivision (d). The fax transmission was reported as complete and without error. A copy of the transmission report showing the date and time of transmission, properly issued by the transmitting machine, is attached to this declaration of service.

☒ **Overnight Delivery.** I enclosed the above-described document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package with overnight delivery fees paid at an office or a location regularly utilized for collection and overnight delivery by an authorized overnight delivery courier.

☐ **Interoffice Delivery.** Based on the agreement of the recipient to accept service by interoffice delivery, I enclosed the above-described document(s) in an envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package at a location regularly utilized for collection and delivery in accordance with ordinary business practices. I am readily familiar with the Office of Administrative Hearings' practice for collecting and delivering documents for interoffice delivery to an employee of another government agency who regularly retrieves the documents from the Office of Administrative Hearings in the ordinary course of business.

☐ **Email or Electronic Transmission.** Based on a court order or the agreement of the parties to accept service by Email or electronic transmission, I caused the document(s) to be sent to the person(s) at the Email address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A true copy of the Email or electronic transmission with the date and time of electronic service, and the electronic notification address of the person making service, is attached to this proof of service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed at Los Angeles, California on May 17, 2007:



Rosario Magalit, Declarant